

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

CV 2012-009261

06/18/2012

HON. ROBERT H. OBERBILLIG

CLERK OF THE COURT

R. Aguilera

Deputy

JOHN M FILLMORE

JOHN M FILLMORE

1930 E TONTO ST

APACHE JUNCTION AZ 85119

v.

RICH CRANDALL, et al.

KORY A LANGHOFER

MICHELE LEE FORNEY

J KENNETH MANGUM

KAREN J HARTMAN-TELLEZ

JOE A ALBO JR.

ATTORNEY GENERAL

COUNTY ATTORNEY-CIVIL SECTION

DOCKET-CIVIL-CCC

MINUTE ENTRY

Courtroom-OCH 309.

Prior to commencement of the proceedings, Defendants' exhibits 1 through 4 are marked for identification.

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11:02 a.m. This is the time set for Election Challenge Hearing. Plaintiff John M. Fillmore is present on his own behalf. Defendant Rich Crandall is present with counsel, Kory Langhofer and Julie Maurer. Defendant Secretary of State Ken Bennett is represented by counsel, Karen Hartman-Tellez. Also present with Ms. Hartman-Tellez is Assistant Secretary of State Jim Drake. Defendants Board of Supervisors and the Maricopa County Recorder are represented by counsel, J. Kenneth Mangum. Defendants Peter Rios, David Synder, Clark Smithson, Laura Dean Lytle, who is present, Steve Kiser, and the Pinal County Board of Supervisors are represented by counsel, Joe Albo.

A record of the proceedings is made by audio and/or videotape in lieu of a court reporter.

Upon order of the Court, Defendant's exhibit 1 is received in evidence.

John M. Fillmore is sworn and testifies.

Arguments are presented to the Court.

Upon order of the Court, Defendant's exhibit 2 is received in evidence.

11:54 a.m. The court stands at recess.

12:00 p.m. Court reconvenes with the parties and respective counsel present.

Defendant's exhibit 3 is received in evidence.

Jasper Altaha is sworn and testifies.

The Court takes Judicial Notice of Defendant's copy of the map of the district at issue in this matter.

Counsel for Defendant Pinal County Board of Supervisors makes an offer of proof related to not having been notified until Saturday that there were Pinal County petitions in this matter and, therefore, said petitions could not be counted or examined until early this morning.

Upon consideration and for the reasons set forth on the record,

**THE COURT FINDS** that Plaintiff has failed to meet his burden of proof by clear and convincing evidence. Therefore,

**IT IS ORDERED** denying Plaintiff's election challenge and dismissing this action.

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**IT IS FURTHER ORDERED** that Mr. Rich Crandall shall remain on the ballot as a candidate for the office of Arizona State Senator from Legislative District 16 in the 2012 primary election.

Under A.R.S. § 16-351(A), any notice of appeal must be filed within five calendar days after the superior court's decision in a challenge to the nomination of a candidate. See *Bohart v. Hanna*, 213 Ariz. 480, 143 P.3d 1021 (2006). An appeal that is belatedly prosecuted, such as one filed on the last day of the statutory deadline, may be dismissed on grounds of laches even if timely filed. See *McClung v. Bennett*, 225 Ariz. 154, 235 P.3d 1037 (2010). Special procedural rules govern expedited appeals in election cases. Ariz. R. Civ. App. P. 8.1

**IT IS FURTHER ORDERED** signing this minute entry as a final appealable Order of the Court.

12:52 p.m. Matter concludes.

DATE: 6-19-12

/ s / HON. ROBERT H. OBERBILLIG

HONORABLE ROBERT H. OBERBILLIG

JUDICIAL OFFICER OF THE SUPERIOR COURT

**LATER:**

Pursuant to the ruling entered, and there being no further need to retain the exhibit(s) not offered in evidence in the custody of the Clerk of Court,

**IT IS ORDERED** that the Clerk permanently release all exhibits not offered in evidence to the counsel/party causing them to be marked or their written designee. Counsel/party or written designee shall have the right to refile relevant exhibits as needed in support of any appeal. Refiled exhibits must be accompanied by a Notice of Refiling Exhibits and presented to the Exhibit Department of the Clerk's Office. The Court's exhibit tag must remain intact on all refiled exhibits.

**IT IS FURTHER ORDERED** permanently releasing exhibit 4 to counsel for Secretary of State Defendant.

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**IT IS FURTHER ORDERED** that counsel/party or written designee take immediate possession of all exhibits referenced above.

ISSUED: Exhibit Release Form.

FILED: Exhibit Worksheet

ALERT: The Arizona Supreme Court Administrative Order 2011-140 directs the Clerk's Office not to accept paper filings from attorneys in civil cases. Civil cases must still be initiated on paper; however, subsequent documents must be eFiled through AZTurboCourt unless an exception defined in the Administrative Order applies.